

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 578 of 2001

to

FIRST APPEAL No 592 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

JIVANBHAI MADHABHAI CHAUDHARY HIREN J CHAUDHARY POA HOLDER OF

Appearance:

MR UMESH TRIVEDI, AGP for Spl. Land Acquisition Officer
MR ND GOHIL for Gujarat Housing Board
MR SAURAB G AMIN and MR JB PATEL FOR MR AJ PATEL for claimants - respondents

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE J.R.VORA

Date of decision: 19/02/2001

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. Admit. Issue Notice. Mr. Saurab G Amin and Mr. J.B. Patel for Mr. A.J. Patel have appeared on behalf of all respondents claimants, accept notice on their behalf in all these matters and waive the service. On the request of both the sides, the matters were taken up for final disposal right now.

2. All these 15 First Appeals are directed against the judgment and order dated 7th January, 2000 passed by Special Judge (LA) Narmada Yojna & 2nd Extra Assistant Judge, Ahmedabad (Rural) at Mirzapur in L.A. Reference Cases No. 160/93 to 172/93 and Land Acquisition Reference Cases No. 391/98 and 550/99 as a common order. The lands of village Gota and Ognaj were sought to be acquired for the purpose of constructing housing colony by the Gujarat Housing Board. For that purpose, the Notice u/s 4 was issued on 12.3.1990 and the Notification u/6 was issued on 11.3.1991 and 14.3.1991. The Land Acquisition Officer passed the Award on 10th December, 1991 determining the rate of compensation at Rs.57.00 per sq. meter. Claimants took the matter in Reference u/s 18 of the Land Acquisition Act. The Reference Court determined the rate of compensation at Rs. 217.00 per sq. meter. While passing this Award on 7th January, 2001, the Reference Court had relied upon the previous Award Exh. 27, in which the Reference Court had determined the rate of compensation with regard to the lands of same village wherein the date of the issuance of Notification was the same i.e. 12.3.1990 and the land was acquired for the same purpose and wherein the rate of compensation was determined at Rs.240.00 per sq. meter and thereafter when the matters were brought before the High Court by the acquiring body, the High Court reduced the rate of compensation from Rs. 240.00 to that of Rs. 217.00 per sq. meter vide Exh. 24 and Exh.33. Against the said decision of the High Court, the matters were taken before the Supreme Court and the Supreme Court vide order at Exh. 59 did not entertain the SLPs and thus the rate of compensation determined by the High Court with regard to the lands of same village acquired through the notification of the same date and for the same purpose was confirmed and for these reasons the Reference Court determined the rate of compensation at Rs. 217.00 per

sq. meter in the present cases which is under challenge in these Appeals.

3. Mr. N.D. Gohil, learned counsel appearing on behalf of the acquiring body i.e. Gujarat Housing Board does not dispute that the date of notification in both the cases is 12.3.1990, that the lands belong to the same village, that the same were acquired for the very same purpose, and that the rate of compensation as was determined by the High Court in the earlier case of previous award, Exh. 27 vide Exh. 24 and Exh. 33 at Rs. 217 per sq. meter was confirmed by the Supreme Court vide Exh. 59 and while he does not dispute that the lands in the earlier case of previous award, Exh. 27 and the lands in the present case are of the same quality. He has submitted that the Reference Court did not take into consideration the documents at Exh. 58, Exh. 41, Exh. 52 and Exh.53. Mr. Saurab G. Amin submits that these documents were taken into consideration earlier also in case of previous award and the orders were passed by the High Court vide Exh. 24 and Exh. 33. However, it is very clear from the reading of Para-22 of the impugned award that all these four documents i.e. Exhs. 58, 41, 52 and 53 had been enumerated therein and their effect has been considered in Para-23 by the Reference Court. Therefore, this argument cannot be sustained.

4. It was then argued that the Valuation Reports, Exh. 117 and Exh.116 were not taken into consideration, but this submission is found to be factually incorrect and contrary to the record. Mr. Gohil has argued that Mr. B.R. Rami who was authorised Government Valuer had made a report in respect of the same land and the same had been wrongly relied upon while passing Exh. 27, Exh. 24 and 33 for the reasons mentioned in para-11 (iv) of the Appeal memo. He has submitted that the valuer B.R.Rami had determined the rate at Rs.310.00 per sq. meter without considering the prevailing market rate of the land acquired and that he had also erroneously noted the land to be of 415 sq. meters instead of 4151 sq.meters and thereby the land which was taken into consideration was 415 sq. meters and instead of Rs. 10.11 per sq. meter the rate was shown as Rs. 101.12ps. Mr. Saurab Amin has pointed out that the earlier award was not based on the report of valuer B.R.Rami and that the previous award was collectively based on the sale instances which were proved by examining the vendor and the consent award - Exh. 81/1 in the earlier proceedings dated 3.9.1994 wherein the notification u/s 4 had been issued on 9.8.1991. He has also submitted that the two

orders which have been passed by the Collector at Exh. 77, Exh. 78 had also been relied upon. It has also been argued that the vendors of the sale instances on which the reliance was sought to be placed on behalf of the acquiring body i.e. the present appellant were never examined. The correctness of the report made by approved government valuer Mr.B.R.Rami cannot be challenged collaterally in these proceedings before this Court more particularly when the same had also been taken note of in the earlier orders passed by the High Court, Exh. 24 and 33. This court does not sit as a court of review or appeal against the order passed by the High Court in Exh. 24 and 33 more particularly when these orders were not interfered with by the Supreme Court. We, therefore, do not find any substance in any of the arguments advanced by Mr. N.D. Gohil. There is no merit in these Appeals and we find that the rate as has been determined by the Reference Court at Rs. 217.00 per sq. meter in the impugned order dated 7th January, 2000 is just and adequate and is in conformity with the earlier orders passed by the High Court. The land is of the same village, the purpose for which the lands were acquired is the same, the date of notification u/s 4 is the same and it is not possible to award the compensation at different rates to the claimants of the same village holding the same quality of the lands under the notification of the same date and amongst 20 land holders identically situated, there is no question of making any discrimination with regard to the land holders who are concerned in these cases.

5. All these 15 First Appeals are hereby dismissed with no order as to costs. It is expected that the due amount of compensation shall be paid to the claimants in all these matters within a period of three months as sought by Mr. N.D.Gohil on behalf of the acquiring body.

(M.R. Calla, J.)

(J.R. Vora, J.)

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